



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/202,336	12/14/1998	ERLAND WITTKOTTER	HPB-7	2766

826 7590 05/19/2003

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
----------	--------------

3621

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/202,336

Applicant(s)

WITTKOTTER, ERLAND

Examiner

Firmin Backer

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 11th, 2003 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 3-18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Blatter et al '873 in view of Yasukawa et al '622.

Regarding all of the above claims:

Art Unit: 3621

Blatter et al teach a data storage and decoding means, figure 1, such that Applicant's local computer system reads on element 25 and column 3, lines 44 - 49, Applicant's external data source reads on element 130, Applicant's local data storage means reads on elements 95, 90 and 105 and column 4, lines 61 - 64, Applicant's linking means reads on elements 115 and 110 and 70, Applicants' protection data reads on the encryption keys of smart card, element 130, Applicant's storing in a non-reconstructed form reads on the PIDs and column 4, lines 41 - 55 and Applicants' non-linearity of the data storage means reads on column 14, lines 41 - 49. Blatter et al fail to teach an inventive concept wherein the internet is used in order to protect the distribution of data files. However, Yasukawa et al teach an inventive concept wherein the internet is used in order to protect the distribution of data files read in abstract, fig 2. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Blatter et al's inventive concept to include Yasukawa et al's an inventive concept wherein the internet is used in order to protect the distribution of data files because this would have facilitate obtaining data files from the protected sources by any remote user.

Regarding particularly claims 3 and 10:

Applicant's operational instructions read on column 5, lines 19 - 26.

Regarding claim 4:

Applicant's storage means reads on column 6, lines 34 - 43.

Regarding claims 5 and 12

Blatter et al teach that their program (encrypted) contains gaps wherein CPSI (Condensed program specific information), used for mapping data, can be placed, columns 13 and 14,

lines 34 – 42 and lines 7 – 20, respectively. This information is used in conjunction with the smart card to de-map the data stored in the storage devices. Therefore, it is considered that it would have been obvious to one of ordinary skill in the art at the time of the invention to receive this information to fill the gaps via a smart card (as this claim is interpreted as performing by the Examiner) rather than by the system, element 25, of Blatter et al., e.g., if the smart card is a “store owned” smart card and all of the data of the videos (programs) received is certain to be arranged the same way.

Regarding claims 6 and 17:

The language of Applicant’s claim 6 reads on the smart card, element 130 and an inherent smart card reader (interface).

Regarding claims 7 and 13:

Applicant’s identification and billing data read on Blatter et al’s entitlement data of smart card, element 130.

Regarding claim 8:

Applicant’s control module reads on element 125.

Regarding claim 9:

Applicant’s step of ensuring reads on the encryption of the programs disclosed in Blatter et al.

Regarding claims 14 and 15:

Applicant’s step of encoding reads on the keys of element 130, Applicant’s step of transmitting reads on an inherent smart card reader/interface and Applicant’s step of decoding reads on elements 115 and 33.

Application/Control Number: 09/202,336
Art Unit: 3621

Page 5

Regarding claim 16:

Applicant's plurality of document units reads on Blatter et al's plurality of video programs.

Regarding claim 18:

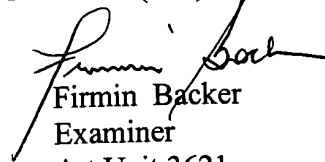
Applicant's data reads on column 3, lines 43 – 49 and column 9, lines 59 – 62.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Firmin Backer
Examiner
Art Unit 3621

May 18, 2003